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	9	Attorneys for Plaintiff JOBY, INC.				
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	11	UNITED STATES DISTRICT COURT				
	12	NORTHERN DISTRICT OF CALIFORNIA				
LAW	13	SAN FRANCISCO DIVISION				
ATTORNEYS AT LAW MOUNTAIN VIEW	14					
ATTOR	15	JOBY, INC.,	Case No. 3:07-CV-06455 (SI)			
•	16	Plaintiff,	DECLARATION OF VIRGINIA K.			
	17	V.	DEMARCHI IN SUPPORT OF JOBY, INC.'S OPPOSITION TO TOCAD			
	18	TOCAD AMERICA, INC.,	AMERICA, INC.'S MOTION TO ENLARGE TIME			
	19	Defendant.				
	20					
	21	I, Virginia K. DeMarchi, declare as follows:				
	22	1. I am a partner with the law firm of Fenwick & West LLP and counsel to plaintiff				
	23	Joby, Inc. ("Joby"). I make this declaration based upon my personal knowledge, and if called				
	24	upon to testify, could and would testify competently to the matters set forth below.				
	25	2. Joby and Tocad representatives met in person with their respective counsel in mid-				
	26	February 2008 to discuss this dispute. During that meeting Joby made a proposal for resolution				
	27	of the dispute, and Tocad represented that it would share a proposed redesign of its flexible tripod				
	28	before the parties' next meeting. At Tocad's request, the next meeting was scheduled for				
		DEMARCHI DECL. ISO OF JOBY'S OPP. TO TOCAD MOTION TO ENLARGE TIME CASE NO. 3:07-CV-06455 (SI)				

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FENWICK & WEST LLP

March 14, 2008, as Tocad's representative, Richard Darrow, indicated that he already had plans to be in San Francisco on that date.

- 3. During the next few weeks following Joby's mid-February meeting with Tocad, I made repeated requests of Tocad's counsel, Michael Warnecke, for images of Tocad's proposed redesign, but received nothing. On March 13, 2008, the day before the parties' next meeting was to take place I received copies of drawings representing Tocad's proposed redesign. Joby found these drawings unacceptable, and I conveyed to Mr. Warnecke that, in light of what Tocad was apparently proposing, Joby did not feel a further meeting would be productive.
- 4. Joby served its complaint on Tocad on March 17, 2008 and filed its motion for a preliminary injunction at about 1:00 p.m. on March 28, 2008 using the Court's ECF system. At my direction, copies of Joby's motion papers were emailed directly to Mr. Warnecke and handdelivered to his offices in Chicago that same afternoon.
- 5. On March 31, 2008, I had a telephone call with Mr. Warnecke and his colleague Debra Bernard. Mr. Warnecke said that Tocad might require some discovery in order to oppose Joby's motion for a preliminary injunction. I asked Mr. Warnecke to let me know what information Tocad required, and indicated I thought we should be able to work something out. Mr. Warnecke also said that he would be traveling in mid-May and would be unavailable until May 23. He asked that Joby stipulate to scheduling the hearing on its motion for that date.
- 6. A few days later, Ms. Bernard informed me that Mr. Warnecke would not be able to prepare for a hearing on May 23, due to his travel schedule, and she asked that Joby stipulate to a hearing on May 30.
- 7. I spoke again by telephone with Ms. Bernard on April 8, 2008. During that call, I advised Ms. Bernard that Joby would agree to continue the hearing to May 30, but that in light of the significant additional time that would be available to Tocad, Joby wanted an adjustment of the briefing schedule to allow it time to take discovery of Tocad's declarants, if that turned out to be necessary. Accordingly, I proposed that Tocad file its opposition on May 2 and Joby file its reply on May 16. Ms. Bernard replied that Tocad would not agree to that modification of the briefing schedule.

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8.	To date, Tocad has not asked for the deposition of a single Joby witness. On April
7, 2008, To	ocad served comprehensive written discovery requests on Joby, encompassing issues
relating to	both Joby's claim and Tocad's counterclaim, but it made no specific demands for
expedited o	discovery of any particular information that it claims is necessary for opposing Joby's
motion for	a preliminary injunction.

- 9. In an effort to move things along, I sent a letter to Ms. Bernard on April 11, 2008. proposing that the parties exchange certain limited categories of information on an expedited basis. Attached hereto as Exhibit A is a true and correct copy of my letter.
- 10. Ms. Bernard replied to my letter on April 15, 2008, indicating an interest "in principle" in the expedited discovery I had proposed, but asking that we first stipulate to a protective order. Attached hereto as Exhibit B is a true and correct copy of her letter to me.
- 11. On April 16, 2008, I responded to Ms. Bernard's letter. Attached hereto as Exhibit C is a true and correct copy of my letter to her, without the enclosure.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed this 18th day of April, 2008, in Mountain View, California.

> /s/ Virginia K. DeMarchi Virginia K. DeMarchi

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